

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL TYBERG,

Plaintiff,

-against-

Case No.: 07 CV 2262

ALBERT EINSTEIN COLLEGE OF MEDICINE OF  
YESHIVA UNIVERSITY, ALBERT EINSTEIN  
COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY  
COMMITTEE ON STUDENT PROMOTIONS AND  
PROFESSIONAL STANDARDS, JAMES DAVID, M.D.,  
and ALLEN M. SPIEGEL, M.D.,

Defendants.

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DANIEL RIESEL, an attorney duly admitted to practice law in the State of New York,  
declares and affirms under penalty of perjury as follows:

1. I am a member of the firm of Sive, Paget & Riesel, P.C., 460 Park Avenue, New York, New York 10022, counsel for defendants Albert Einstein College of Medicine of Yeshiva University, Albert Einstein College of Medicine of Yeshiva University Committee on Student Promotions and Professional Standards, James David, M.D., and Allen M. Spiegel, M.D (collectively, "Defendants"). I submit this affirmation in support of Defendants' motion for summary judgment.

2. On March 16, 2007, plaintiff Michael Tyberg ("Plaintiff"), by his attorneys, commenced the above-captioned action by filing the Complaint with the Court. On March 19, 2007, Plaintiff effected service upon Defendants.

3. On April 5, 2007, Defendants filed and served their Answer to the Complaint.

4. On May 11, 2007, Defendants served Notice of Deposition and Request to Produce Documents on Plaintiff.

5. Following Plaintiff's failure to appear at the September 25, 2007 pre-trial conference; such conference was adjourned until October 10, 2007. At the October 10th pre-trial conference, the Court executed the Scheduling Order dictating deadlines for discovery. The Scheduling Order provides for completion of fact discovery and identification of experts by January 31, 2008.


6. On December 7, 2007, Defendants served their Initial Disclosures pursuant to Rule 26(a) of the Federal Rules of Civil Procedure.

7. To date, Plaintiff has made no Rule 26(a) disclosures and has not responded to Defendants' discovery requests.

WHEREFORE, on the basis of Plaintiff's failure to identify any triable issues of fact during the now expired period for discovery, it is respectfully urged that the Court grant Defendants' motion for summary judgment.

Dated: New York, New York  
April 1, 2008

SIVE, PAGET & RIESEL, P.C.  
Attorneys for Defendants

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